THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.20844 of 2006

27.10.2006

Between:

Kampasati Annapoorna, W/o.Nageswara Rao
And others

… Petitioners

AND

The District Collector, West Godavari District, Eluru
And others

… Respondents

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WRIT PETITION No.20844 of 2006

ORDER:

The five petitioners claim to be successors in interest of late Smt.Doppasani Rattamma. They divided the property among themselves equally, which was allegedly accepted by Rattamma in her Will as well as settlement deed. The petitioners obtained Pattadar Pass Books (PPBs) and title deeds from the third respondent and raised crop loans from Cooperative Society. However, the second respondent by proceedings dated 13.12.2004 cancelled the PPBs. The petitioners then filed W.P.No.24975 of 2004 challenging the said proceedings of the second respondent. This Court disposed of the said writ petition on 02.2.2005 observing that the respondents to conduct enquiry as per law. Thereafter the second respondent again issued proceedings on 27.6.2005 cancelling the PPBs. The petitioners filed W.P.No.15571 of 2005 challenging the same. By an order dated 19.7.2005, this Court set aside the order of the second respondent and directed the third respondent to consider the case of the petitioner and pass orders in accordance with law. The petitioners allege that the third respondent did not conduct any enquiry and no orders are passed. But respondents 4 to 7 allegedly entered upon the petitioners' land and damaged banana crop. Therefore, they filed the instant writ petition seeking a writ of Mandamus declaring the action of the respondents in passing the order cancelling the PPBs as illegal

and arbitrary. They also seek further declaration that the petitioners are entitled to continue in possession of the land admeasuring Acs.50.00 in R.S.No.26 of Namavaram Village of Chintalapudi Mandal in West Godavari District.

When the matter was initially listed before this Court on 04.10.2006 so as to enable the learned Assistant Government Pleader for Revenue (General-A), this Court adjourned the matter. Today when the preliminary arguments were heard, learned Assistant Government Pleader has produced before this Court a copy of the proceedings in Roc.663/2004 (Dy.MRO), dated 02.7.2005 and submits that in accordance with the orders of this Court in W.P.No.24575 of 2004 dated 02.2.2005, the MRO has already passed orders and in view of the availability of effective alternative remedy, this writ petition is not maintainable.

The writ petition is filed before this Court alleging that though no order as such is passed by the MRO, the contesting respondents entered into the land forcibly. Now that the MRO has passed an order, the petitioner can avail alternative remedy by filing appeal under Section 5(5) of A.P. Rights in Land and Pattadar Pass Books Act, 1971 (the Act, for brevity). Further as rightly contended by the learned Assistant Government Pleader and learned Counsel for respondents 4 to 7 – who also filed counter affidavit – after this Court disposed of W.P.No.24575 of 2004, the Revenue Divisional Officer (RDO) as well as the Mandal Revenue Officer (MRO) conducted enquiry. The RDO passed orders on 27.6.2005, which was set aside by this Court in W.P.No.15571 of 2005 as one without jurisdiction and in violation of principles of natural justice. As seen from the order dated 02.7.2005, in obedience to the order of this Court in W.P.No.24575 of 004, notices were issued by the RDO and in response thereto, the petitioners appeared before the MRO and filed the documents. The MRO after verifying the documents came to the conclusion that the petitioners have no clear title over the land in R.S.No.26 and disposed of the matter observing that PPBs are issued to respondents 4 to 7. The question whether the petitioners produced necessary material in proof of their *prima facie* case for issue of PPBs/title deeds is a question of fact, which can as well be appreciated by the RDO. Therefore, it would be in the interest of the petitioners, they may approach the appellate authority and prefer the appeal. The petitioners may file appeal within a period of two weeks from the date of receipt of a copy

of this order. As and when such appeal is filed, the appellate authority, the RDO – second respondent herein; shall consider the appeal and pass appropriate orders, after conducting a detailed enquiry and giving an opportunity to the parties of being heard, and without in any manner being influenced by the observations made hereinabove and without referring to the earlier proceedings passed by him on 26.7.2005, which has been set aside by this Court in W.P.No.15571 of 2005.

The writ petition, with the above observations, is accordingly dismissed. No costs.

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October 27, 2006 (**V.V.S.RAO,J**)

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